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10/711,588	09/27/2004	Henk W. M. Boelaars	2255.0	5587

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LEGAL DEPARTMENT  
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EXAMINER
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NICHOLSON III, LESLIE AUGUST

ART UNIT	PAPER NUMBER
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3651

MAIL DATE	DELIVERY MODE
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08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/711,588

Applicant(s)

BOELAARS, HENK W. M.

Examiner

Leslie A. Nicholson III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 32-36 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-14, 18-31 and 37-40 is/are rejected.
- 7) ☒ Claim(s) 9, 15-17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 7/27/2007 have been fully considered but they are not persuasive. Applicant asks "would each of the three Bonnet belts (16,18,20) be replaced by an individual roller-top belt as in Arscott FIGS.4-6... or would the roller-top conveyor of Arscott replace the entire shuttle assembly?" and argues Bonnet's shuttle conveyor and its timing belt "is a much more complex solution than a single roller belt, as first proposed by applicant". In response, the roller-top belt of Arscott would replace belts 16,18,20 of Bonnet. The result would be the same as that shown in fig.1 in the instant application. The solution is workable because such a replacement would remove the need for transport mechanism 30 (C3/L57-64, fig.3,4,6), of Arscott, which is required to establish article diversion. Arscott does not describe his device as limited to a main or diverting roller-top belt. Applicant believes Arscott implies that his device is only used as a main conveyor. It is the Examiner's position that "accepting products entering sideways and being discharged sideways" (C3/L47-48) it not limited to accepting and discharging products transverse to the direction of main conveyance, but transverse to the direction of travel of the roller-top belt.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was

within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

***Allowable Subject Matter***

2. Claims 32-36 are allowed.

Claims 9,15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,2,5,7,8,10,11,18-27,29-31,37-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnet USP 5,984,078 in view of Arscott USP 4,231,469.

Bonnet discloses a conveyor system comprising a main conveyor (12) and at least one cross conveyor (18,20) disposed along the main conveying path and intersecting and passing through the main conveyor (fig.1) and sensors (54). Bonnet does not expressly disclose the cross conveyor comprising a roller-top belt having a

plurality of rollers and having axles, a bi-directional drive engaging the roller-top belt, the drive for the roller-top belt including sprocket sets on opposite sides of the main conveyor, or a wear surface.

Arscott teaches a roller-top belt having a plurality of rollers and having axles (fig.5,6), a bi-directional drive engaging the roller-top belt (described by directions 3,3') (C3/L10-13), the drive for the roller-top belt including sprocket sets on opposite sides of the main conveyor (inherent, if not disclosed), and a wear surface (C3/L50-56) for the purpose of providing a clean positive entry or exit of products entering sideways and being discharged sideways (C3/L45-56).

At the time of invention it would have been obvious to one having ordinary skill in the art to employ a roller-top belt having a plurality of rollers and having axles, a bi-directional drive engaging the roller-top belt, the drive for the roller-top belt including sprocket sets on opposite sides of the main conveyor, and a wear surface, as taught by Arscott, in the device of Bonnet, for the purpose of providing a clean positive entry or exit of products entering sideways and being discharged sideways.

5. Claims 3,4,6,12-14,28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonnet USP 5,984,078 in view of Arscott USP 4,231,469 further in view of Adama USP 4,598,815.

Bonnet discloses all the limitations of the claim, but does not expressly disclose the main conveyor comprising a series of endless belt loops along the main conveying path separated by a gap, the main conveyor belt defining a conveying plane along a

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major portion of the main conveying path and disposed below the cross conveyor along a minor portion, or the article-supporting surface slightly above the main conveying plane when the drive is driving the roller-top belt.

Adama teaches the main conveyor comprising a series of endless belt loops along the main conveying path separated by a gap, the main conveyor belt defining a conveying plane along a major portion of the main conveying path and disposed below the cross conveyor along a minor portion (at least fig.3) for the purpose of the main conveyor belt moving continuously from the upstream side to the downstream side (C7/L26-36).

At the time of invention it would have been obvious to one having ordinary skill in the art to employ the main conveyor with a series of endless belt loops along the main conveying path separated by a gap, the main conveyor belt defining a conveying plane along a major portion of the main conveying path and disposed below the cross conveyor along a minor portion, as taught by Adama, in the device of Bonnet, for the purpose of the main conveyor belt moving continuously from the upstream side to the downstream side.

Adama teaches the article-supporting surface slightly above the main conveying plane when the drive is driving the roller-top belt for the purpose of creating a diversion of conveyed articles (C8/L23-48).

At the time of invention it would have been obvious to one having ordinary skill in the art to have the article-supporting surface slightly above the main conveying plane

when the drive is driving the roller-top belt, as taught by Adama, in the device of Bonnet, for the purpose of creating a diversion of conveyed articles.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie A. Nicholson III whose telephone number is 571-272-5487. The examiner can normally be reached on M-F, 8:30 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on 571-272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

L.N.  
8/2/2007



GENE O. CRAWFORD  
SUPERVISORY PATENT EXAMINER